

AT A REGULAR MEETING OF THE CULPEPER COUNTY BOARD OF SUPERVISORS HELD IN THE BOARD ROOM, LOCATED AT 302 N. MAIN STREET, ON TUESDAY, OCTOBER 7, 2003.

**Board Members Present:**     **John F. Coates, Chairman**  
   **Steven L. Walker, Vice-Chairman**  
   William C. Chase, Jr.  
   Sue D. Hansohn  
   James C. Lee  
   Brad C. Rosenberger  
   Carolyn S. Smith

**Staff Present:**                     Frank T. Bossio, County Administrator  
   J. David Maddox, County Attorney  
   Valerie H. Lamb, Finance Director  
   John C. Egertson, Planning Director  
   Paul Howard, Director of Environmental Services  
   Peggy S. Crane, Deputy Clerk

**CALL TO ORDER**

Mr. Coates, Chairman, called the meeting to order at 10:00 a.m.

**INVOCATION**

Rev. Miriaus Williams, Associate Minister, Divine Life Full Gospel Baptist Church, presented the invocation.

**PLEDGE OF ALLEGIANCE TO THE FLAG**

Mrs. Hansohn led the members of the Board and audience in the Pledge of Allegiance to the Flag.

**RE: AGENDA - ADDITIONS AND/OR DELETIONS**

Mr. Frank Bossio, County Administrator, asked that the following changes be made to the agenda:

Move agenda item #5 from the 10:00 a.m. agenda to the 7:00 p.m. agenda as Item #1-A,

**RE: RAPPAHANNOCK RIVER BASIN COMMISSION WATER SUPPLY PLANNING PROJECT;**

Add under **SPECIAL PRESENTATIONS**, as Item #3-A, **PRESENTATION TO A LONG-TIME EMPLOYEE;**

Add under **CLOSED SESSION**, as item 8: Under *Virginia Code* § 2.2-3711(A)(7), to discuss with the County Attorney the salaries of specific employees in various specific County departments.

Mr. Walker asked that Item j be pulled from the **CONSENT AGENDA** to allow for discussion. Mr. Coates stated it would be heard as Item #3-B.

Mr. Walker moved, seconded by Mrs. Smith, to amend the agenda accordingly.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

**RE: MINUTES**

The minutes of the September 2, 2003 regular meetings and September 11, 2003 joint work session with the School Board were presented to the Board for consideration.

Mr. Walker moved, seconded by Mr. Lee, to approve the minutes as presented.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

**CONSENT AGENDA:**

Mr. Bossio reviewed the following Consent Agenda items with the Board:

- a. The Board will consider a motion to ratify a resolution Declaring a Local Emergency due to Hurricane Isabel;
- b. The Board will consider a motion to ratify that Voluntary Donations to Designated County projects be incorporated on the 2003 personal property tax bills;
- c. The Board will consider a resolution commending Cintas for hangar use at the County Airport to protect aircraft during Hurricane Isabel;
- d. The Board will consider approving a budget amendment for the School system for State funds received for career and technical education in FY 03 in the amount of \$16,429.00;
- e. The Board will consider approving a budget amendment for the County Health Department of unspent local funds in the amount of \$1,696.57 for the purpose of purchasing Environmental Health Services Equipment;
- f. The Board will consider approving a budget amendment for the Sheriff's Office from excess fees collected in FY 03 to purchase ADP equipment for mug shots in the Courthouse in the amount of \$12,400.00;
- g. The Board will consider approving a budget amendment for the Department of Social Services for the Head Start Grant for additional Federal funds received in the amount of \$8,895.00;
- h. The Board will consider approving acceptance and appropriation of a TRIAD grant for the Sheriff's Department from the Department of Criminal Justices Services in the amount of \$5,025.00 (local match from the Sheriff's budget in the amount of \$1,675.00);
- i. The Board will consider approving a budget amendment for the Sheriff's Office for funds received from an anonymous donor in the amount of \$3,000.00 for police supplies for officer safety;
- j. The Board will consider approving acceptance and appropriation from the U. S. Department of Justice, Universal Hiring Grant for the Sheriff's Department for a three-year grant beginning with FY 04 in the amount of \$235,414.00. This grant will provide two positions with a

local match of \$85,414.00 from the Sheriff's operating budget (**moved to regular agenda as Item # 3-B**); and

k. The Board will consider approving a Resolution of Appreciation to honor Raymond R. Kite for his service on the Town & County Joint Board of Zoning Appeals.

Mr. Walker moved, seconded by Mrs. Hansohn, to approve the Consent Agenda as amended.

Mr. Coates asked that Mr. Bossio read the following resolutions into the record before a vote was taken:

**CULPEPER COUNTY, VIRGINIA  
DECLARATION OF LOCAL EMERGENCY  
DUE TO HURRICANE ISABEL**

**WHEREAS**, on September 15, 2003, because of the impending arrival of Hurricane Isabel, Governor Warner declared a state of emergency in Virginia; and

**WHEREAS**, the effects of Hurricane Isabel in Culpeper and surrounding counties has been severe; and

**WHEREAS**, Hurricane Isabel has caused a natural disaster as defined by Section 44-146.16 of the *Code of Virginia* and it has caused damage, hardship, and suffering; and

**WHEREAS**, there are various parts of the County which have received considerable damage, causing potential loss of property and danger to life; and

**WHEREAS**, the Director of Emergency Services having received reports of this damage from the Emergency Services Director/Coordinator and County staff, and upon finding that the governing body cannot convene due to the immediacy of the need for this declaration;

**NOW, THEREFORE BE IT RESOLVED**, by the Director of Emergency Services of Culpeper County that he does hereby declare the existence of a local emergency, subject to confirmation by the governing body at its next regularly scheduled meeting on October 7, 2003, which declaration is made in conformance with Section 44-146.21 of the *Code of Virginia* and shall include all authorities, authorizations and particulars there are; and

**BE IT FURTHER RESOLVED**, that it is the judgment of the Director of Emergency Services of Culpeper County that this disaster is of sufficient severity and magnitude to warrant coordinated local government action to prevent, lessen or alleviate the damage, loss, hardship or suffering threatened or caused by this natural disaster; and

**BE IT FURTHER RESOLVED**, that this Declaration of Local Emergency is effective immediately upon its execution and shall remain effective until such time as the full governing body finds that all emergency actions have been taken, whereupon appropriate action will be taken to end the declared emergency.

**BE IT FINALLY RESOLVED** that upon adoption by the Culpeper County Board of Supervisors that a copy of this resolution shall be transmitted to the Governor of Virginia.

**DONE**, this 7th day of October 2003.

/s/ John F. Coates  
John F. Coates, Chairman  
Culpeper County Board of Supervisors,  
Director of Emergency Services

ATTEST:

Frank T. Bossio  
Clerk to the Board

APPROVED AS TO FORM:

John D. Maddox  
County Attorney

**CULPEPER COUNTY, VIRGINIA  
DECLARATION OF APPRECIATION  
TO CINTAS CORPORATION**

**WHEREAS**, the Culpeper County Regional Airport is the home airport for numerous, small private aircraft which are not housed in hangars, but are tied down on the Airport apron; and

**WHEREAS**, on September 15, 2003, because of the impending arrival of Hurricane Isabel, Governor Warner declared a state of emergency in Virginia; and

**WHEREAS**, on September 17, 2003, on very short notice, CINTAS CORPORATION, headquartered in Cincinnati, Ohio, made available, without charge, a large hangar at the airport to house seven small, private aircraft, which otherwise would have been tied down on the apron at the Airport during the hurricane; and

**WHEREAS**, the housing of these small aircraft in the hangar prevented any damage to the aircraft from the high winds of and flying debris caused by Hurricane Isabel; and

**WHEREAS**, the Culpeper County Board of Supervisors is greatly appreciative of the prompt action and public spirit demonstrated by CINTAS CORPORATION, in making the hangar available; and

**NOW, THEREFORE BE IT RESOLVED**, by the Culpeper County Board of Supervisors to make this Declaration of Appreciation to CINTAS CORPORATION.

**DONE**, this 7<sup>th</sup> day of October 2003.

John F. Coates, Chairman  
Culpeper County Board of Supervisors

ATTEST:

Frank T. Bossio  
Clerk to the Board

APPROVED AS TO FORM:

John D. Maddox  
County Attorney

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

**SPECIAL PRESENTATIONS**

**RE: RESOLUTION OF APPRECIATION**

Mr. Coates presented a Resolution of Appreciation to Raymond R. Kite for his service on the Town & County Joint Board of Zoning Appeals. Mr. Bossio read the Resolution into the record:

**RESOLUTION OF APPRECIATION**

***Presented to  
RAYMOND R. KITE***

**WHEREAS**, Raymond R. Kite was a founding member of the Town and County Joint Board of Zoning Appeals to represent the Town and County; and

**WHEREAS**, he was appointed to serve on the Town and County Joint Board of Zoning Appeals in 1968; and

**WHEREAS**, he was reappointed to serve on the Town/County Joint Board of Zoning Appeals in 1973, 1978, 1983, 1988, 1993, and 1998; and

**WHEREAS**, he has elected not to seek reappointment when his term expired in 2003; and

**WHEREAS**, his service and devotion to the duties of public service has earned him the respect and trust of his fellow Board members, County staff and the citizens of Culpeper County for his 35 years of service; and

**NOW, THEREFORE BE IT RESOLVED**, the Culpeper County Board of Supervisors extends its deep appreciation and gratitude to Raymond R. Kite for his years of public service and that the Board wishes to recognize him for his dedication, guidance, and invaluable contribution while serving the Town and County Joint Board of Zoning Appeals;

**NOW, THEREFORE BE IT FURTHER RESOLVED**, that the Culpeper County of Supervisors would like to thank Mr. Kite for a job "well and faithfully done" and that he be honored for his allegiance and service to the community.

**DONE**, this 7<sup>th</sup> day of October 2003.

By: William C. Chase, Jr., Stevensburg District  
Sue D. Hansohn, Catalpa District  
James C. Lee, Cedar Mountain District  
Brad C. Rosenberger, Jefferson District  
Carolyn S. Smith, West Fairfax District  
Steven L. Walker, East Fairfax District

/s/ by John F. Coates  
John F. Coates, Chairman  
Culpeper County Board of Supervisors  
Salem District

ATTEST:

\_\_\_\_\_  
Frank T. Bossio  
Clerk of the Board

Mr. Coates presented a Virginia cup to Mr. Kite that had been engraved with his years of service. Mr. Kite thanked the Board for the gift and recognition given to him.

**RE; PRESENTATION TO LONG-TIME COUNTY EMPLOYEE**

Mr. Coates stated that the Board and staff would be recognizing a long-time County employee and asked Mrs. Peggy Crane, Deputy Clerk, to come forward. He expressed the Board's appreciation for her 20 years of exemplary service to the County and presented her with a commemorative plaque honor of the occasion. Mrs. Crane thanked Mr. Coates, the Board and staff for the honor.

**RE: ACCEPTANCE OF GRANT FOR THE SHERIFF'S OFFICE** (Item j. from **CONSENT AGENDA**)

Mr. Bossio explained that the Department of Justice had awarded the Sheriff's Office

a Universal Hiring Grant in the amount of \$235,414. It was a three-year grant beginning in FY 04 to cover two positions, and it required a \$85,414 local match from the Sheriff's operating budget. He said that the Board had granted approval for the Sheriff to submit the grant application at its June 3, 2003 meeting.

Mr. Walker expressed his concern regarding the status of the two positions when the grant funds were depleted at the end of three years. Mrs. Hansohn asked Sheriff Lee Hart to address this concern.

Sheriff Hart stated that the grant application had been made because of Homeland Security issues and the need for increased personnel in the Sheriff's Department due to the growth of the community, the rise in the inmate population, and the increased calls for services. He pointed out that the grant provided an opportunity to save taxpayers' money by hiring two individuals with only a 25 percent match. He stated that the Sheriff's Department had obtained approximately \$775,000 in grant funds during the last four years and he appreciated the Board's consideration of this request.

Mrs. Hansohn asked the Sheriff whether he planned to ask for more personnel in the upcoming budget. Sheriff Hart stated that his budget request would include additional personnel. Mrs. Hansohn then asked if these two positions would be considered a part of that request. Sheriff Hart stated that they could be included. He added that the reason he sought grants was to offset future costs due to increased growth and calls for service.

Mr. Chase inquired whether the State Compensation Board was aware of these needs. Sheriff Hart stated that when he began his administration in 2000, the State Compensation Board was paying 53 percent of his budget and, today, the Compensation Board was paying only 35 percent.

Mr. Chase said that he understood the Compensation Board set the number of deputies needed based on population – one deputy per 1,500 people. Sheriff Hart stated that those figures did not coincide with the needs of the County.

Sheriff Hart stated that since Homeland Security had taken place, his Department's primary function had expanded to include an evaluation of the infrastructure and plan of action in the event of terrorists' activity and to train personnel in-house to educate the community regarding any potential threats.

Mr. Coates agreed that the Board needed to be aware of public safety and stated that he would support the request.

Mr. Rosenberger commented that Mr. Walker's points were well taken, but he did not think it stopped with personnel and consideration needed to be given to any new programs the grant might provide and their future costs.

Mr. Lee expressed his support for the grant and agreed that there was a need, but felt that at some point in the future, a decision would need to be made regarding future grants as the County continued to grow.

Mr. Lee called the question. Mr. Coates stated there was no motion on the floor.

Mr. Lee moved, seconded by Mrs. Hansohn, to approve the acceptance and appropriation of the three-year grant from the U. S. Department of Justice in the amount of \$235,414, with a local match of \$85,414 from the Sheriff's budget.

Mr. Rosenberger called the question.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

#### **RE: AWARD OF FINANCIAL REPORTING ACHIEVEMENT**

Mr. Bossio presented Ms. Valerie Lamb, Finance Director, with a Certificate of Achievement for Excellence in Financial Reporting, awarded by the Government Finance Officers Association for the County's Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2002. He thanked Ms. Lamb and her staff, the School System and all County entities that interacted financially with the County. Ms. Lamb thanked him and recognized the assistance provided by the Finance staff, School System, County Treasurer, Commissioner of the Revenue and Planning and Building Departments.

Mrs. Hansohn inquired whether the Budget Analyst position had been filled, which the Board had approved to work with the Schools, the County, and Social Services. Ms. Lamb replied that interviews would begin October 9<sup>th</sup>.

#### **INTRODUCTION OF NEW EMPLOYEE**

Mr. David Maddox, County Attorney, introduced Ms. Diana McKnight, his new Legal Assistant, and reviewed her extensive employment background. Ms. McKnight thanked Mr. Maddox, the members of the Board, and the citizens of Culpeper County for the opportunity to share her experience and abilities in serving the community.

#### **GENERAL COUNTY BUSINESS**

**RE: RAPPAHANNOCK RIVER BASIN COMMISSION WATER SUPPLY PLANNING PROJECT** – Moved to the 7:00 p.m. agenda.

#### **RE: CULPEPER COMMUNITY COMPLEX**

Mr. Paul Howard, Director of Environmental Services, informed the Board that the Timmons Group had completed the drawings and bid documents for the Culpeper Community Complex and that staff, the County Parks & Recreation Advisory Committee and the Culpeper Recreation Foundation had reviewed and endorsed them. He stated that Mr.

Steve Hostetler, of the Timmons Group, was present to review the project and answer any questions.

Mrs. Hansohn asked Mr. Charlie Barrell, Chairman of the Culpeper Recreation Foundation, for his comments.

Mr. Barrell stated that the Foundation was at a standstill on its fundraising since they were waiting to see how the bids came in. He said it was difficult to ask donors for money when the Foundation did not know exactly what needs would be filled by the bond issue.

Mr. Coates recessed the meeting at 10:40 a.m.

Mr. Coates called the meeting back to order at 10:50 a.m.

Mr. Hostetler, a principal with the Timmons Group, presented an update on the status of the Community Complex and displayed pictures of the property at Green's Corner and Jonas Roads off Route 29. He indicated the locations for the six soccer fields, baseball complex, and three football fields; the parking lots, including asphalt pavement and curb/gutter, and security lighting; the graded area for future concessions buildings; the walking trails; and a water system that would be used for potable water for future concessions buildings and untreated irrigation water for the athletic fields. He indicated the entrance roads off Green's Corner Road and Jonas Road and stated that they could ultimately be connected in a loop with future development on the remaining areas. He presented detailed construction plans and listed the items that were not included in the project; such as, design and construction of the sanitary drainfield system, landscaping, lights for the athletic fields, sod for infields or other athletic fields, and bleachers and pads. He stated that the intent was for the general contractor to grade the athletic fields, but a separate turf/grass contractor would do the actual seeding of the fields.

Mr. Hostetler reported that they had worked with DEQ to establish a mitigation area on the site and indicated where some wetlands could be created and used as an amenity for the site, with split rail fencing or some type of decorative fence so it could be used as an educational wetland habitat. He stated that a specialty contractor would also be used for this project.

Mr. Hostetler proposed, in order to manage costs, the following items had been identified as "add-to-bid alternates", which were not critical to the initial function of the project: The main entrance off Green's Corner Road, demolition of existing farm buildings, paving a portion of a proposed parking lot (approximately 177 spaces), fencing the baseball fields, and lighting of parking lots and entrance roads. He pointed out that the County had a cost-sharing arrangement with VDOT to improve Jonas Road and build the entrance road into the site and to construct part of the access road toward the baseball fields and part of



the road to the soccer fields.

Mr. Hostetler stated that the total construction cost would be approximately \$3.5 million, including all of the add/alternates, but not including revenue sharing with VDOT. He estimated it would take approximately 12 months to build and the target was to get the actual fields turned over to a turf/grass contractor in mid-September 2004.

Mr. Chase questioned the necessity and expense of paving the roads. He felt that gravel roads would be satisfactory for the present and could be paved sometime in the future. Mr. Howard stated that paving had been identified as a maintenance issue and to eliminate the dust associated with gravel roads.

Mr. Chase pointed out that many residents lived and drove on gravel roads all over the County and that paving within the park was a huge and unnecessary expense at the present time. Mr. Howard pointed out that it would be more expensive in the future to pave and put in gutters and sidewalks and that curb/guttering would provide drainage and protect the edge of the asphalt.

Mrs. Hansohn inquired whether paving was one of the things that could be looked at during the bid process and delayed until later. Mr. Hostetler stated it would be complicated to do later because grading was done differently for paving and nonpaving because of drainage. He said that if gravel were used, it would have to be removed and replaced prior to paving. Mr. Chase disagreed that the gravel would have to be removed and replaced prior to paving.

Mr. Coates added that dust had been a problem with the fields now being utilizing and that additional traffic meant increased dust. He inquired whether consideration had been given to just curbing, rather than curb and gutter. Mr. Hostetler replied that there was not a significant cost difference, and there would be wear and tear on the curb without the gutter.

Mr. Coates asked Mr. Egertson to comment on the revenue sharing grant. Mr. Egertson stated that a Recreational Access Fund grant was in place and money had been set aside for the County's share for paving and widening Route 703 and the first 500 feet of road into the park. He said that the second part of the grant application to extend the interior roads in each direction was pending, and VDOT expected it would be funded, but there was no guarantee. He said that staff would meet with VDOT shortly to iron out procedures for a working relationship among the contractors and to finalize the second grant.

Mr. Coates inquired whether the funds would be coming from a different source than revenue sharing. Mr. Egertson stated the Recreational Access Fund grants were not VDOT funds and had to be approved by the Department of Conservation and Recreation. He said the delay for the second part of the grant was due to VDOT's reluctance to commit the funds

until the park became a reality.

Mr. Coates asked for an estimate of what the County's participation would be for the roads. Mr. Egertson replied that he did not have the figures for the second portion of the grant, but the first part provided \$250,000, which was 100 percent from VDOT, to pave Route 703 and the first 500 feet into the park, and everything beyond that amount was 50/50. He estimated that the total project would cost \$299,000, which meant the County would pay \$24,500.

Mr. Chase pointed out that none of these funds would be used for curb/gutter and walking trails. Mr. Egertson stated that was correct. Mr. Coates asked for an estimate for the cost of curb and gutter per foot. Mr. Hostetler stated it would cost \$12 per foot.

Mr. Walker inquired about the amount of the bond referendum. Mrs. Hansohn stated it was \$3.5 million. Mr. Coates added that the cost was originally estimated at \$5 million, but a lot of hard work had gone into working with VDOT to obtain funding to offset some of the expense.

Mr. Walker thanked the Committee for its hard work. He pointed out that the bond referendum had passed by 60 to 70 percent, which was indicative of what the voters wanted.

Mrs. Hansohn asked the Committee members to stand and be recognized. Mr. Coates thanked the members for their assistance, and the audience applauded in appreciation.

Mr. Lee moved, seconded by Mrs. Hansohn, to authorize the project to proceed to bid.

Mr. Chase said that he would vote against the motion for the reasons stated earlier.

Mr. Rosenberger pointed out that the Board could accept or reject the bids in whole or in part if the costs were prohibitive. Mr. Coates agreed that there would be many options the way the bid was written.

Mr. Maddox stated that in using the alternative method of bidding, the Board would have control over costs, but there was also the option of rejecting all of the bids and rebidding.

Mrs. Smith pointed out that the voters had spoken and agreed to spend \$3.5 million. She said that the Board would have to make sure that the money was spent wisely.

Mr. Coates stated he appreciated the comments made, as well as the concerns expressed by Mr. Chase, and he hoped that the bids would come in under the estimate given.

Mr. Coates called for voice vote.

Ayes - Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Nay - Chase

Motion carried 6 to 1.

**RE: TREASURER'S ANNUAL REPORT**

Mr. Stephen Southard, County Treasurer, informed the Board that he was required by the *Code of Virginia* to report on the following five areas:

Report 1: A list of real estate on the Commissioner's land book improperly placed or not ascertainable, with the amount of taxes charged – No report was necessary since there was no real estate improperly placed on the Commissioner's land book.

Report 2: A list of other real estate which was delinquent for nonpayment of taxes – A summary report had been provided to the Board. and a full report was on file in the Treasurer's office.

Report 3: A list of delinquent taxes assessed on tangible personal property, machinery and tools, merchants' capital and other subjects of local taxation, other than real estate – A summary report had been provided to the Board, and the full report was on file in the Treasurer's office.

Report 4: A list of uncollected taxes amounting to less than \$20 each for which no bills were sent under §58.1-3912 – No report was made since all bills had been sent out.

Report 5: A list of uncollected balances of previously billed taxes amounting to less than \$20 – No report was made since all bills were determined to be cost effect to collect.

Mr. Southard explained that delinquent real estate taxes as of June 30, 2003 (Report 2) totaled \$472,007 out of the total real estate assessment of \$16,700,646. He stated that minimal effort was expended in the first two years to collect because the interest was 20 percent the first year and 10 percent the second year. He said that once the tax was more than two years delinquent, the judicial sale process began, which had been a very effective program. He stated that the assessments for personal property (Report 3) increased by 72 percent since 1993 and were over \$10 million for 2002. He noted that as of June 30, 2.38 percent or \$245,840 was delinquent. He pointed out that looking at five years, the period of time the Treasurer was able to collect, there was approximately \$581,000 due, equating to a 1.4 percent delinquency rate.

He stated that total delinquent real estate and personal property was just over \$1 million and had decreased gradually since 1996, his first year in office.

Mr. Southard stated he was proud that while the total tax levy had increased approximately 75 percent over the past ten years, the delinquent tax ratio was down from 11.14 percent in 1994 to 3.75 percent in 2002. He said this was not just due to efforts of the Treasurer's office, but also the Commissioner's Office, the County Administrator and Finance

staff, as well as the Sheriff's Department that served over \$50,000 in seizures this year alone.

He noted that decal sales in the last ten years had increased approximately 55 percent increase, but animal license sales had remained stable over the past four years

Mr. Walker thanked Mr. Southard for his extensive report.

Mrs. Smith moved, seconded by Mr. Lee, to accept the Treasurer's Report for 2003 as presented.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

Mr. Southard asked for the Board's approval to advertise the delinquent tax list as had been done for the last four or five years. He stated that the ad would cost approximately \$5,000, but that amount was usually recouped quickly once the list was published.

Mrs. Hansohn moved, seconded by Mr. Lee, to authorize the Treasurer to publish the delinquent tax list in the local newspaper.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

**RE: G.W. CARVER CENTER FOR APPLIED LEARNING**

Mrs. Hansohn stated that the County was in the process of purchasing the old Piedmont School, and a committee had been formed on the Board's behalf to study how the school could be used in the future. She said that several of the committee members were present, and three members would make short presentations.

Mrs. Hansohn introduced John Jenkins, a member of the committee, and stated that he would be providing an overview. Mr. Coates noted that Mr. Jenkins was a former principal of the school when it was in full operation.

Mr. Jenkins informed the Board that the committee had worked hard and the George Washington Carver Center for Applied Learning was now active. He described the team effort with Germanna Community College and, in particular, the work of Bill Burser, Larry Aylor, Colonel Samuel Glasker, Reverend Billy Scott, and Dr. William Bloomer. He stated that there were new course offerings in the building trades and that program would be enhanced further to include increased participation. He thanked the Board for keeping the school active and the notable efforts and assistance of Mrs. Hansohn and Mr. Bossio.

Mrs. Hansohn indicated that Mr. Jenkins had extensive historical knowledge of the school, and she had been encouraging him to write a book about the school so that the

public could be aware of the interesting things that had occurred there over the years.

Mrs. Hansohn introduced Dr. Frank Turnage, President of Germanna Community College and a committee member.

Dr. Turnage thanked the Board for the opportunity for Germanna Community College to participate in the process. He stated that several people from the College were helping him with the programming. He introduced Dana Dwyer, Coordinator for Work Force, and Dr. Yvette Hester, Dean of Instruction, both at the Locust Grove Campus; and Brent Wilson, Instructor for the Automotive Program at the Center. He referenced the success of the practical nursing program at the Center, prior to being transferred to Germanna, and thanked the Board for the financial assistance provided during the transition period. He said that he envisioned many similar successes at the Center.

Ms. Dana Dwyer reported that as a result of an environmental scanning done last December to determine what kinds of jobs were available in the area, interior carpentry had been identified. She stated that an open house was held in August and the community was asked to help in building the infrastructure to get a woodworking lab back into operation. She stated that Joe Daniel had donated the materials, and the lab should be ready by the end of the week for students to come and practice their skills by installing a door, window, or cabinet. She noted that a one-day workshop on residential electrical was scheduled for October 24<sup>th</sup>, plumbing programs would begin in November, and an interior trim carpentry certificate program would begin the end of January and run through the end of April, for entry-level work in the residential housing industry. She pointed out this program was not available in other places and people would come from outside the area in order to take advantage of this training.

Dr. Yvette Hester discussed the practical nursing program and its successes. She stated that the program had grown and the percentage of licensure results was 94 percent in 2001, above the Virginia rate of 80 percent and the United States rate of 85 percent. . She said that the fall automotive program was operating at capacity with 23 students, and two Administration of Justice classes and a humanities class (Introduction to African American Studies) were currently ongoing. She added that they would be surveying the area to determine additional interests to be targeted.

Mr. Coates inquired about the length of the practical nursing course. Dr. Hester replied that the certificate course ran for 11 months, and many practical nurses entered the R.N. Program, which Germanna also offered. She stated that the placement rate was quite high due to the nursing shortage in the area.

Dr. Turnage thanked the Board for continuing to support Germanna Community

College. He called attention to the contribution that John Jenkins had made by serving on the Germanna Community College Board for 12 years, several years as chair.

Mrs. Hansohn introduced Peter Mocarski, Virginia Employment Commission Director and active Committee member.

Mr. Mocarski stated he was pleased that he had been asked to be a member of the Carver Center for Applied Learning Advisory Committee, particularly due to his interest in additional adult education opportunities in Planning District 9. He said that during the past two years, the area had lost approximately 1,200 jobs, mostly in the manufacturing-related industry and many of the unemployed did not have a high school education or lacked other skills. He cited the need for upgrading skills and providing G.E.D. classes, as necessary. He pointed out that the lack of skilled labor also increased the unemployment problem in the area. He complimented Sue Hansohn for her work in addressing the need for adult education and stated that the Carver Center, working in conjunction with the Technology Center, would be an asset in bringing new industry to the area and providing jobs above the minimum rate of pay.

Mrs. Hansohn asked Mr. Mocarski to address the EMT and paramedic training.

Mr. Mocarski stated that there was a recognized need for EMTs because the area's counties would become more dependent upon paid staff during the day due to the volume of calls. He said he had been working with Tom Williams, Director of Emergency Services, in developing EMT training and investigating fire science related classes.

Mr. Walker inquired whether there were more active jobs in Culpeper County than 12 to 13 years ago. Mr. Mocarski replied that there were many more actual jobs here, but approximately 50 percent of the Culpeper County workforce commuted out of the area according to the 2000 Census. He said that while jobs had increased in the County, there was a need for more higher paying jobs in manufacturing, rather than lower paid jobs in retail.

Mr. Walker inquired about a recent emergency grant for the long-term unemployed. Mr. Mocarski stated that Senator George Allen was involved with an emergency grant earmarked specifically for former employees of Keller, Technicolor in Green County and Wrangler in Page County, as well as some Comdial employees. He said the grant was for training and not for unemployment benefits. He said it was unfortunate that training funds could not have been provided earlier so that those still receiving unemployment benefits could have received full-time training while still drawing benefits.

Mr. Coates thanked the Committee members for their presentations.

Mrs. Hansohn stated that the Committee had been looking at the historical resources

of the school because it was the very first black high school in the region. She thanked those who served on the Committee and asked for their continued participation.

Mr. Coates recessed the meeting at 12:00 p.m.

Mr. Coates called the meeting back to order at 12:15 p.m.

**RE: WORKFORCE DEVELOPMENT AND TECHNOLOGY TRAINING CENTER**

Mr. Bossio stated that the Board had previously authorized \$1 million for Germanna's Technical Center, which was on track for funding in the December-January time frame. He said that Dr. Turnage had requested a possible date for assignment of the \$1 million in order to stay on schedule. He reported that \$1 million had been placed in a designated account for Germanna Community College under the County's own escrow. He stated that according to the Virginia Community System policy 10.0.1.0.2(e), the County could assign a date and transfer the money to the Germanna Community College, or it could provide a legal instrument stipulating that the dollars were available to Germanna upon request. He suggested that the Board issue a legal document to Germanna stating that the \$1 million would be delivered prior to the signing of the contract.

Mr. Chase moved, seconded by Mr. Lee, to execute a legal document to be signed by the County and Germanna Community College stating that the \$1 million would be available when requested by Germanna Community College for the Tech Center.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

**RE: SCHOOL'S REQUEST FOR FUTURE SCHOOL FUNDING**

Mr. Bossio reported that the Board had participated in numerous discussions regarding present and future schools during the past year and the County had presented a proposed plan at the last budget session, with the assistance of the County's financial consultants, which would help ameliorate the overall effect of constructing a high school and a middle school. He said that the School System had subsequently received a report from VMDO Architects, which had been reviewed and discussed in a recent joint Board of Supervisors/School Board meeting. He stated that the School Board was interested in having a commitment from the Board of Supervisors to ensure that funding would be available in the budget to pay for the new high school. He noted that Dr. Cox had agreed that the property piece would be left out of the equation until a cost had been determined.

Mr. Bossio presented staff projections regarding new school construction and future schools. He emphasized that the projections were based on assumptions, and Dr. Cox and the School Board had reviewed them. He said that some of the staff projections were close

to those of Dr. Cox and the School Board, but there were divergent questions that would need to be answered.

Mr. Bossio discussed the age of the current school buildings and the needed renovations. He stated that the overall composition of enrollment by school level varied: The 2000 Census figure was .58 percent per housing unit, VMDO arrived at .72 students per housing unit, and Weldon Cooper came in below both of those projections, but the County staff's projections were in line with VMDO's at .72. He said that the School Board reported current enrollment of 6,041. County staff projections were similar to the School Board's projections until the year 2009, when they began to regress. He attributed the difference between staff projections and the VMDO model to the timing used for the subdivision build out.

Mr. Bossio presented information regarding infrastructure for the schools, such as one additional teacher per each additional 21 students, that would result in a 10 percent increase for the high school, and 9 percent for middle/elementary schools in the year the new school opened. He offered similar costs for additional buses, drivers and maintenance, health costs, etc. He discussed the cumulative increase of operational costs which would jump from approximately \$4 million in 2005 to \$6 million when the new school opened.

Mr. Bossio discussed in detail the effect of new school construction on the tax rate. He stated that previously the new high school had been programmed in the last budget cycle to open in 2008 showing 2 cents in 2005, 3 cents in 2007, and 9 cents in 2008, but if the high school opened in 2006, the 2005 tax would be 10 cents, 9 cents in 2008. He said that to renovate the old high school in 2008 would add an additional 4 cents and a new elementary school would add an additional 2 cents if the revenue projections held true at that point.

Mr. Bossio stated that the impact on the County's bond ratings was unknown, but he would be looking closely at that with the County's financial consultants. He said that the County's policy for debt per capita was \$1,000, and he believed that particular instrument would not have a significant impact on bond ratings. He stated that the County's debt versus the assessed value of taxable property might have some impact on the bond rating, but he did not believe it would be catastrophic. He noted that the County did not have a policy on debt versus income, but a policy would be prepared for the Board's consideration if it became a relevant factor. He stated that debt versus expenditures might have a significant impact on bond ratings, and this would be reviewed and discussed further with the Board.

Mr. Bossio stated that the School Board's had requested \$82.6 to build a new high school, to renovate the middle school, to build a new elementary school, and to renovate Sycamore Park. He reported that Dr. Cox had written and requested that a joint committee



be formed to begin the process, work on problems, and to locate a site for the new high school. He said the Board would need to make a decision on how to proceed.

Mrs. Hansohn stated that the presentation was helpful in understanding what was anticipated in the future, and there was no disagreement that a new school would be needed.

Mrs. Hansohn moved that up to \$1.5 million be authorized to move forward with the planning of the new high school and that an oversight committee be formed consisting of the School Board members, Board of Supervisors members, plus four additional from each group from citizens to be appointed by each Board and this committee will be the oversight committee to look at how that \$1.5 million is spent and also the whole building process and the planning of a new school. Mrs. Smith seconded.

Mr. Walker pointed out that the motion on the table was not to appropriate funds at this time, but to make a commitment to the School Board to begin the process. Mrs. Hansohn stated that some funds would be needed as the committee proceeded to cover any costs associated with developing a plan. Mr. Walker stated that the School Board would have to come back to the Board in order to get the funds appropriated and to determine a source for those funds.

Mr. Bossio said that the present budget was in the final phases of closeout and he was not in a position at the present time to indicate the source of the funding. He stated that he could not ask the Board to appropriate money without a funding source. He said that funds for property would not be a consideration because the cost was unknown and land might even be donated.

Mrs. Hansohn inquired whether she should amend the motion to authorize the committee to move forward, and the request for funding would be brought to the Board after the committee determined the needs and identified a site. Mr. Bossio agreed that would be appropriate.

Mrs. Smith stated that \$1.5 million was a lot of money, and she cautioned that it be spent wisely. Mr. Coates stated that he agreed with Mrs. Smith, but the Board had acknowledged at its joint meeting with the School Board that a new high school was needed and the School Board wanted a commitment from the Board to move forward.

Mr. Bossio stated that it was his understanding from Dr. Cox that the committee could be formed and implemented within a few weeks, and that the issues would be brought to the Board quickly as questions needed to be answered. He felt that the funds could be done by bond anticipation notes, if the Board wished, or from any unused close-out funds.

Mr. Coates inquired about the time frame for the committee's work. Mr. Bossio replied that he expected the committee to take four to six months to come to a conclusion on

a number of the larger issues, but County staff and School staff would be looking at sites in the meantime and to ascertain what the debt instruments might be.

Mr. Lee pointed out that Dr. Cox had put forth a clear time frame and appropriate guidelines in his letter to the Board. He said that he supported Mrs. Hansohn's motion, but was unclear whether the entire Board of Supervisors was to serve on the committee.

Mrs. Hansohn said that her motion stated the committee would consist of School Board members, Board of Supervisors members, and four citizens for each group. She acknowledged that all Board members would not be able to attend every meeting, but it would be a definite commitment of time for those Board members who did participate.

Mr. Walker asked for clarification regarding the projected tax rates. Mr. Bossio stated that the tax rate would be 10 cents in the year 2005, followed by 6 cents for operational costs in the year the school opened, or a 16-cent increase.

Mr. Walker pointed out that was a major increase in the tax rate, but felt that by working together with the School Board and others on the committee, the costs possibly could be pared down. Mrs. Smith agreed.

Mr. Rosenberger stated that there was no doubt that the need existed, and he hoped that unused appropriations could be found at the end of this budget cycle. He pointed out that no mention had been made regarding a possible bond referendum to cover the funds, and he was hesitate to commit to such a large expenditure without asking the voters for their approval.

Mr. Rosenberger asked Mrs. Hansohn to repeat the motion.

Mrs. Hansohn stated that the amended motion was to move forward with the planning of the high school, and that an oversight committee be formed consisting of the School Board members, the Board of Supervisors members, with four additional citizens for each Board, to meet and oversee the planning of this school.

Mrs. Hansohn said that Mr. Rosenberger had raised a valid point, but she felt that when the committee brought back the actual numbers that would be the time to decide whether to go to referendum.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

Mr. Coates thanked the members of the School Board and staff who were in attendance.

Mr. Coates announced that the Board would be going to the Carver Center for lunch and a tour of the facility and would reconvene at 3:00 p.m.

Mr. Coates recessed the meeting for lunch at 1:00 p.m.

Mr. Coates called the meeting back to order at 3:00 p.m.

**RE: UPDATE ON HURRICANE ISABEL**

Mr. Tom Williams, Director of Emergency Services, reported that Culpeper County was spared major devastation by Hurricane Isabel, although damage totaled \$1.6 million. He stated that trees fell through three houses resulting in major structural damage, three families were displaced, and 15 houses had minor damage. He estimated that insurance would cover most of the damage, but the County had been covered for all four categories for FEMA assistance by Presidential Declarations. He said that the County was eligible to apply for public assistance to cover costs incurred by the Town and the County in cleaning up the debris, as well as the expenses that the transfer station incurred. He noted that teams from FEMA had been in the County for the past several days assessing the damage. He thanked Rappahannock Electric for its assistance and for keeping County staff informed.

Mr. Williams stated that Carl Stafford, Extension Agent, Virginia Cooperative Extension, had to leave and asked him to report that agricultural damages were estimated at approximately \$600,000.

Mr. Chase inquired about the use of the shelter. Mr. Williams stated that the County had a total of 10 people in the shelter.

Mr. Coates pointed out that the Fire Department and Rescue Squad buildings were manned with volunteers and paid personnel and made themselves readily available. Mr. Williams stated that all the Fire and Rescue stations were manned throughout the night, and County staff had been dispersed around the County to assist the various Departments that might have had difficulty with advance life support. He noted that the Departments without electricity used generators and remained open.

Mr. Coates stated that the Sheriff's Department, Fire and Rescue personnel and others had assisted VDOT by cutting trees to keep the roads open.

Mr. Walker inquired whether the Culpeper Middle School was the main shelter area. Mr. Williams stated that Culpeper Middle School was the primary shelter designated by the County, but he would be working with the Red Cross and School System to identify an additional shelter for the future. Mr. Coates suggested that Floyd T. Binns School be considered because of its access and shower facilities.

Mr. Coates thanked Mr. Williams for his report and asked him to thank Mr. Stafford.

No action was necessary.

**RE: AGRICULTURE UPDATE** [Given by Tom Williams in Mr. Stafford's absence.]

**RE: RESOLUTION SUPPORTING STEVEN L. WALKER TO SERVE ON THE VACO**

## **BOARD**

Mr. Coates stated that the Board would consider a Resolution Endorsing Steven L. Walker to represent Region VII on the VACo Board.

Mrs. Hansohn moved, seconded by Mrs. Smith, to approve the resolution to reappoint Mr. Walker to serve on the VACo Board.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

## **RE: VOTING CREDENTIALS FOR THE ANNUAL BUSINESS MEETING**

Mr. Coates inquired who would be attending the Annual VACo Meeting at the Homestead to be held November 9<sup>th</sup> through 11<sup>th</sup>. Mr. Walker, Mrs. Smith, and Mr. Rosenberger indicated they planned to attend.

Mrs. Hansohn moved, seconded by Mr. Lee, to designate Mr. Walker as the Board's representative to cast its votes at the business meeting. Mrs. Smith and Mr. Rosenberger were designated to serve as alternates.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

## **COMMITTEE REPORTS**

### **BUILDINGS & GROUNDS COMMITTEE/SEPTEMBER 9, 2003/8:30 A.M.**

Mr. Lee reported that the Buildings & Grounds Committee met on September 9<sup>th</sup>, but there were no action items.

See attachment #1 for details of meeting.

### **RULES COMMITTEE/SEPTEMBER 9, 2003/9:30 A.M.**

Mr. Walker reported that the Rules Committee met and were forwarding several recommendations. Mr. Walker moved, seconded by Mrs. Smith, to accept the Rules Committee recommendation to move forward with the paving of Route 677 from the Airport entrance to the hangar entrance and that Airport Acquisition funds be utilized for this project, and to encourage the Civil War Preservation Trust (CWPT) to participate in funding to extend pavement to its entrance.

Mr. Lee stated he would support the motion but he felt the County should pave the entire road even if the CWPT did not agree to participate. He said it was a safety issue for school buses in bad weather, and he did not feel that the additional \$12,000 was a significant amount.

Mr. Walker asked Mr. Bossio if there was still a problem with tractor trailers turning

around on the apron area of the Airport. Mr. Bossio stated that the problem had lessened since signage had been installed.

Mr. Walker stated that it may be worthwhile for the Board to authorize paving the CWPT turnaround area, so that tractor trailers that mistakenly travel down the Airport road would have a place to turn around.

Mr. Coates stated that if that area would accommodate buses, it would certainly accommodate trucks. He questioned whether the Tourism people would want to participate in this project, but he felt that the CWPT did not have the money to participate

Mrs. Smith inquired whether there was any warning on the road indicating there was no turnaround for tractor trailers. Mr. Bossio replied that there were clearly marked signs, but occasionally drivers confused the Airpark and Airport roads.

Mr. Walker stated that the Rules Committee did not actually discuss the source of funding for the additional \$12,000, and he did not know whether Airport Acquisition funds could be used for the additional paving to protect the road to the Airport. Mr. Bossio stated that those funds were earmarked for incentive purposes for economic development issues and, in that context, it would be appropriate to use those funds for the extra paving if the Board so desired.

Mr. Walker amended his motion to allow for the additional \$12,000 to come out of the Airport Acquisition Fund if the Civil War Preservation Trust did not participate. Mrs. Smith withdrew her second. Mr. Chase seconded the motion.

Mr. Coates inquired whether the motion called for \$47,120 to pave up to the entrance to the hangars and an additional \$12,000 to go to the CWPT. Mr. Walker replied that the \$47,000 was the total amount, but continued efforts would be made to obtain participation by the CWPT.

Mrs. Hansohn called the question.

Mr. Coates called for voice vote and then for a show of hands.

Ayes - Chase, Lee, Rosenberger, Walker

Nays - Coates, Hansohn, Smith

Motion carried 4 to 3.

Mr. Walker stated that the Rules Committee had a lengthy discussion on whether or not to impose a meals tax in the County.

Mr. Walker moved to accept the Committee's recommendation to recommend approval to move forward by resolution to request the Circuit Court to order an election on the question of enacting a County food and beverage tax. Mr. Chase seconded.

Mrs. Hansohn asked when the referendum would take place.

Mr. Maddox stated that the reason the type of election was left blank in the resolution was because it could be a special election or it could be done at the same time as the Presidential primary election on February 10, 2004. He said that a certified copy of the resolution had to go to the Circuit Court in time for the Circuit Court to enter an order more than 60 days prior to that election, which meant that the Board had until its November meeting to act. He stated that the Rules Committee was recommending that the meals be set at 4 percent, which was the maximum allowed under the statute. He recommended that the question on the ballot be restated to read: "Shall Culpeper County, Virginia enact a four (4) percent cent sales tax on the sale of food and beverages by restaurants and similar retail facilities for consumption on the premises." He pointed out that the change merely reversed the two phrases.

Mrs. Smith asked if the tax would apply to carry-out food. Mr. Maddox stated that the tax would cover any food that would be consumed at the time of purchase and any food prepared on the premises and purchased to carry out would be taxed.

Mr. Walker pointed out that legislation would not allow the County to have an overlay on the Town since the Town already had a meals tax. He felt that a lot of the voters would be concerned about a 4.5 percent tax in the Town, an additional 4 percent tax by the County, plus the 4.5 percent State sales tax.

Mrs. Hansohn questioned why the Town could have 4.5 tax and the County could only have a 4 percent tax. Mr. Walker stated that the County was required to abide by the Dillon Rule.

Mrs. Smith stated that as part of the County's educational process, the taxpayers should be informed prior to the election that the County tax would not apply to the Town.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0

Mr. Rosenberger asked whether there was a lodging tax. Mr. Walker stated that there was a lodging tax and the County collected approximately \$5,000 a year.

Mr. Walker asked the County Attorney to comment regarding a cigarette tax.

Mr. Maddox stated that the Rules Committee had asked him to look into the possibility of whether the County could impose a cigarette tax. He said that the statute stipulated that if a county had the power to impose the tax prior to January 1, 1977, then it may impose the tax. He noted that there was a separate statute that authorized Fairfax and Arlington Counties specifically to impose that tax. He stated that he had checked with the Deputy Clerk and the State Department of Taxation and concluded that the Culpeper County did not

have that power and had not exercised it. He said that the County Treasurer checked with Merchants Grocery, which had been in the business of selling cigarettes for a long period of time in the County, and was assured that the County had never imposed a cigarette tax.

Mrs. Hansohn inquired whether a cigarette tax was an issue that the Board could bring to its legislators. Mr. Maddox replied that any county could certainly raise that issue because there was a statute on the books to cover it.

Mr. Coates asked if this could be referred to the Legislative Committee. After discussion, there was a consensus that the issue regarding a cigarette tax be referred to the Legislative Committee.

Mrs. Smith asked whether any of the taxes could be earmarked to go directly to the schools. Mr. Coates asked the County Attorney look into that and report when the Legislative Committee met. Mr. Walker agreed that earmarking the meals tax toward something like schools or recreation would make it more palatable to the taxpayers.

Mr. Coates asked the County Attorney to look into both of these issues.

See attachment #2 for details of meeting.

#### **E-9-1-1 BOARD OF DIRECTORS/SEPTEMBER 19, 2003/7:30 A.M.**

Mrs. Hansohn reported that the E-9-1-1 Board of Directors met on September 19<sup>th</sup> but there were no action items.

#### **ECONOMIC DEVELOPMENT REPORT**

Mr. Carl Sachs, Economic Development Director, provided the following report:

1. Two grants have been awarded to the Workforce Investment Board in the amounts of \$336,800 and \$558,880 from the Department of Labor's National Emergency Grants Program to provide training and education for the 1,262 workers who were laid off at Keller Manufacturing, Technicolor and VD Jeanswear.
2. An informational meeting on the recently passed ordinance, Partnership for Economic Development and Job Training, will be held on October 16<sup>th</sup> at 8:00 a.m. at the Train Depot Conference Center.
3. The Rappahannock-Rapidan Regional Commission recently received the "2003 Rappahannock-Rapidan Regional Labor Force Study" and the "Demographic & Economic Profile of the Rappahannock-Rapidan Regional Commission Area" prepared by the Weldon Cooper. He stated it was available on the internet at [www.rrregion.org/labor.html](http://www.rrregion.org/labor.html). Mr. Bossio asked Mr. Sachs to provide copies of both to each Board member.
4. At the recent International Economic Development Council's Annual meeting in Cincinnati, there was an exchange of information and a lot of networking, and one of the messages sent loud and clear was the idea of "sustainability of work force". Businesses are

looking at communities where there is a high quality of life and a sizeable availability of labor. Quality of life factor is becoming more and more important in terms of attracting businesses to communities.

5. The Culpeper Harvest Days Farm Tour was held October 4<sup>th</sup> and 5<sup>th</sup> and was very successful.

6. The new marketing piece depicting a small briefcase has been provided to the Board. It indicates where Culpeper is located and describes the community's attributes.

7. The Economic Development Advisory Committee held a strategic planning session with both the Town Manager and County Administrator in attendance. The Committee decided that the first task would be to work with the Agricultural Advisory Committee to see if there were ways to combine efforts to try to improve the lot of the farmers in the County.

Mr. Walker stated that he and his family participated on the Farm Tour and felt it was very successful. He said he would be interested to know if any effort had been made in promoting agricultural businesses, other than as tourism, and encouraging people to start a similar business in the area. Mr. Sachs stated that many of the sites that had been on the farm tour for years and indicated that people do come back throughout the year to make purchases. He agreed that promoting economic development through farm tours was a way to expose agriculture to people as a tourism venture, as well as exposing the businesses to people as a business venture.

Mr. Bossio informed Mr. Sachs that his office had already received positive responses to the new advertisement. He added that a key issue raised was the need for broadband in the area.

#### **AIRPORT ADVISORY COMMITTEE**

Mr. Bossio reported that the Airport Advisory Committee met and there were no items to be forwarded for the Board's consideration.

#### **ADMINISTRATOR'S REPORT**

Mr. Bossio reported the following:

1. The November Board meeting falls on election day and the Board's meeting will be held on Wednesday, November 5, 2003.
2. A School Board/BOS Interaction Committee meeting was held and there were no action items for the Board, but motions were approved that (1) the Interaction Committee formally invite the Town Council to become active members, and (2) Chip Coleman was appointed in absentia as chair of the Swimming Pool Committee. The next meeting is scheduled for December 15, 2003 and will be hosted by the County.

Mr. Walker moved, seconded by Mr. Lee, to formally invite the Town to join the



County/School Interaction Committee.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

3. The Strategic Planning Session is scheduled for October 24<sup>th</sup>.
4. A Legislative Committee meeting will be scheduled in the near future.

### **CLOSED SESSION**

Mr. Chairman, I move we enter into closed session, as permitted under the following *Virginia Code* Sections, and for the following reasons:

1. Under *Virginia Code* §2.2-3711(A)(1), to consider: (A) Prospective candidate for appointment to the Library Board, (B) potential nominees for "Culpeper Colonel"; and (C) evaluate performance of specific personnel in a County agency.
2. Under *Virginia Code* §2.2-3711(A)(1) and (A)(7), to discuss with the County Attorney the performance of a specific department with regard to probable litigation by non-employees.
3. Under *Virginia Code* §2.2-3711(A)(7), to consult with the County Attorney to consider probable litigation by non-employees.
4. Under *Virginia Code* §2.2-3711(A)(1) and (A)(7), to consult with the County Attorney concerning enforcement of various County Zoning Ordinances against a specific County landowner and its relation to other potential developments.
5. Under *Virginia Code* §2.2-3711(A)(1) and (A)(7), to consult with the County Attorney regarding probable litigation by a former employee.
6. Under *Virginia Code* §2.2-3711(A)(7) to discuss with the County Attorney probable litigation by non-employees involving a County agency.
7. Under *Virginia Code* §2.2-3711(A)(7) to consult with the County Attorney regarding litigation relating to land use of a specific property.
8. Under *Virginia Code* §2.2-3711(A)(1), to discuss with the County Attorney the salaries of specific employees in various specific County departments.

Mrs. Smith seconded.

Mr. Coates called for voice vote.

Ayes - Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Nay - Chase

Motion carried 6 to 1.

The Board entered into closed session at 3:55 p.m.

The Board returned to open session at 6:30 p.m.

Mr. Coates polled the members of the Board regarding the closed session held. He asked the individual Board members to certify that to the best of their knowledge, did they certify that (1) only public business matters lawfully exempted from the open meeting requirements under Virginia Freedom of Information Act, and (2) only such public business matters as were identified in the closed session motion by which the closed meeting was convened, were heard, discussed or considered by the Board in the closed session.

Mr. Coates asked that the record show that Mr. Chase was not present for the closed session.

Ayes - Walker, Lee, Coates, Smith, Rosenberger, Hansohn.

Absent - Mr. Chase.

**RE: APPOINTMENT TO THE LIBRARY BOARD**

Mr. Walker moved, seconded by Mrs. Hansohn, to appoint Mr. John H. Garber to the Library Board.

Mr. Coates called for voice vote.

Ayes - Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Absent - Chase

Motion carried 6 to 0.

**RE: CHANNEL 21**

Mr. Walker moved, seconded by Mrs. Smith, to direct the County Administrator to send a letter to the Town Manager discussing the Board's wish to see the mission and goals of Channel 21 to be clearly defined as a governmental channel.

Mr. Coates called for voice vote.

Ayes - Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Absent - Chase

Motion carried 6 to 0.

**RE: CLAIMS OF CRAIG AND KIM AYSCUE**

Mr. Walker moved, seconded by Mrs. Hansohn, that the Board adopt the resolution denying the claims of Craig and Kim Ayscue.

Mr. Coates called for voice vote.

Ayes - Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Absent - Chase

Motion carried 6 to 0.

**RE: CLAIMS OF MR. AND MRS. D. S. McPHAIL**

Mr. Walker moved, seconded by Mr. Rosenberger, that the Board adopt the resolution denying the claims of Mr. and Mrs. D. S. McPhail.

Mr. Coates called for voice vote.

Ayes - Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Absent - Chase

Motion carried 6 to 0.

**RE: CLAIMS OF GREENGAEEL LLC AND ASHMEAD COMPANY LLC**

Mr. Walker moved, seconded by Mrs. Smith, that the Board adopt the resolution denying the claims of Greengael LLC and Ashmead Company LLC.

Mr. Coates called for voice vote.

Ayes - Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Absent - Chase

Motion carried 6 to 0.

**ADJOURNMENT**

Mrs. Smith moved, seconded by Mrs. Hansohn, to adjourn at 6:35 p.m.

Mr. Coates called for voice vote.

Ayes - Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Absent - Chase

Motion carried 6 to 0.

\_\_\_\_\_  
Peggy S. Crane, CMC  
Deputy Clerk

John F. Coates, Chairman

ATTEST:

Frank T. Bossio, Clerk to the Board

APPROVED: November 5, 2003

\*\*\*\*\*

AT A REGULAR MEETING OF THE CULPEPER COUNTY BOARD OF SUPERVISORS HELD IN THE BOARD ROOM, LOCATED AT 302 N. MAIN STREET, ON TUESDAY, OCTOBER 7, 2003.

**Board Members Present:** **John F. Coates, Chairman**  
**Steven L. Walker, Vice-Chairman**  
William C. Chase, Jr.  
Sue D. Hansohn  
James C. Lee  
Brad C. Rosenberger  
Carolyn S. Smith

**Staff Present:** Frank T. Bossio, County Administrator  
J. David Maddox, County Attorney  
John C. Egertson, Planning Director  
Sam McLearen, Zoning Administrator  
Peggy S. Crane, Deputy Clerk

**CALL TO ORDER**

Mr. Coates, Chairman, called the meeting to order at 7:00 p.m.

**CITIZEN FORUM**

Mr. Coates opened the Citizen Forum and called for comments on any item that was not on the agenda.

There were none, and Mr. Coates closed the Citizen Forum.

**RE: AGENDA ADDITIONS AND/OR DELETIONS**

Mr. Bossio asked that **RE: RAPPAHANNOCK RIVER BASIN COMMISSION**  
**WATER SUPPLY PLANNING PROJECT** be added under **GENERAL COUNTY BUSINESS**  
as Item 1-A.

Mr. Walker moved, seconded by Mrs. Smith, to amend the agenda accordingly.

Mr. Coates called for a voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried seven to zero.

**PUBLIC HEARING**

**THE BOARD WILL RECEIVE PUBLIC COMMENTS AND CONSIDER A RESOLUTION TO**  
**NAME A NEW BRIDGE LOCATED ON ROUTE 647 OVER BROOK RUN IN MEMORY OF**  
**EARL S. HAWKINS**

Mr. Coates stated that Mr. Chase had recommended that the new bridge over Brook Run be named in memory of Earl S. Hawkins, and a resolution to that effect would be considered.

Mr. Coates opened the public hearing and called for public comments.

Mr. Woody Woodward, Stevensburg District, spoke in favor of the request. He said that he and his family had known Mr. Hawkins for many years, and he had been a very positive citizen and an asset to the County.

Mr. Raymond Kite stated that he had known Earl Hawkins from the time he came to

Culpeper County. He said that Mr. Hawkins had a positive influence on the County's agricultural industry and the honor was richly deserved.

There were no further comments, and Mr. Coates closed the public hearing.

Mr. Chase moved, seconded by Mrs. Hansohn, to approve the resolution to name the new bridge in memory of Earl S. Hawkins.

Mr. Coates called for a voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

### **GENERAL COUNTY BUSINESS**

#### **RE: RAPPAHANNOCK RIVER BASIN COMMISSION WATER SUPPLY PLANNING PROJECT.**

Mr. Coates introduced Mr. Robert Wittman, Rappahannock River Basin Commission (RRBC) Chair and a member of the Westmoreland County Board of Supervisors, and Mr. Eldon James, Executive Director.

Mr. Wittman informed the Board that the RRBC met on October 1<sup>st</sup> in Culpeper, and he thanked Mrs. Smith, the Board's representative on the RRBC, for her hospitality in providing her home for the meeting.

Mr. Wittman reported that over the past three years, the Commission had been pursuing water supply planning on a regional basis in an effort to develop a framework that counties within the Rappahannock River Basin could use in their own water supply planning process. He said that RRBC had ensured that the localities, State and Federal governments, utility companies, and stakeholders were in agreement with what should be included in the guidelines and principles for water supply planning, as well as the homebuilders associations, Piedmont Environment Council, and others. He stated that a computer model had been developed and was available on the RRBC website so that localities could use the model to determine future water needs. He said that the RRBC was asking the Board to approve a resolution agreeing to consider the guiding principles and tools developed by the RRBC as a basis for the County's future water supply planning. He noted that the State was in the process of developing regulations that would require localities to do water supply planning.

Mr. Chase expressed his concern regarding the need for clear-cutting. Mr. Wittman stated that the Division of Forestry had met with the Commission on several occasions to discuss forestry practices that would allow selective cutting and buffer zones. He said the Commission had expressed concern about the need to maintain a diversity of forest, as well as the need to supply people with information on how to reestablish hardwoods once they

had been cut. He stated that the RRBC would readdress the issue of clear-cutting with the Division of Forestry based on Culpeper County's concern.

Mrs. Smith commented that Culpeper County had been a participant in the Commission since its inception. She noted that the RRBC had spent time in studying issues that affect the community and its relationship to the entire region. She pointed out that staff of the County had participated in individual subgroups of the Commission and that Paul Howard, Director of Environment Services, had spent many hours in Fredericksburg reviewing water supply issues. She explained that the Commission was a non-policymaking body that gathered and disseminated information, made recommendations for legislative initiatives, and worked together as a region. She thanked Mr. Wittman for his comments regarding her hospitality and also thanked the County staff who provided an excellent welcome to the Commission.

Mr. Coates thanked both Mr. Wittman and Mr. James and assured them that they would be hearing from the Board regarding the resolution.

No action was taken.

#### **UNFINISHED PLANNING COMMISSION BUSINESS**

**CASE NO. Z-384-03-1.** Request by Angler Broadlands, LLC to rezone 17.63 acres from R-3 (Residential) to VC (Village Center Commercial). The property is located on Routes 694 and 229 in the Catalpa Magisterial District. The Culpeper County Comprehensive Plan designates this area for low density residential development. Tax Map/Parcel No. 41/54F.

Mr. Egertson, Planning Director, displayed a tax map that highlighted the location of the property being considered for rezoning from a current multifamily R-3 designation to a commercial designation. He indicated that the property was located directly north of the High School/Middle School complex and was surrounded by Route 229, Ira Hoffman Lane, Success Drive and Achievement Drive, which were all State roads. He stated that the request carried a set of proffers, in which a slight change had been made, and copies had been provided to the Board. He explained that the proffers included a buffered area and a fenced area that would provide separation between Achievement Drive and the shopping center, and the access had been limited to a right-turn in from Route 229, with a full entrance on Ira Hoffman Lane and a full entrance on Success Drive. He said the developer had committed to a traffic signal at Success Drive and Ira Hoffman Lane, as well as at the main entrance to the development, which would probably not be necessary due to the close proximity to the other signal. He noted that the proposal was limited to 180,000 square feet of total development, of which 35,000 was required for office use and 10,000 square feet reserved for a day care facility.

Mr. Egertson stated that the case was postponed last month at the request of the applicant based on concerns raised by School officials. He reminded the Board that the Planning Commission recommendation was for denial based on nonconformance with the Comprehensive Plan, as well as the impact of commercial development in close proximity to the schools. He noted that since last month, staff had met with School officials and learned that their primary concern was regarding traffic, even though they were concerned about the potential of the shopping center being an "attractive nuisance" to the students. He said the specific concern was regarding the entrance to Success Drive and how any stacking of left-turn movements into the shopping center on Success Drive might cause substantial backup at the afternoon peak hour of the day when the schools were dismissed. He pointed out that the applicant had responded with proffer #13, which contained a series of improvements to Success Drive, i.e., a full frontage-improved road with curb and gutter, with left-turn and right-turn lanes into the center, a left-turn lane into the potential residential development on the east, and some additional lacing. He said that there was a caveat that the entire road would be subject to final design as part of the site plan review, but they were committed to building these improvements if required by VDOT and the County. He stated there was also a proffer added as an addendum that would require the developer to build a second road parallel to Success Drive, which would run from Ira Hoffman Drive to Achievement Drive, with a second outlet from the schools. This proffer also contained the caveat that it would be subject to final approval by the County and VDOT prior to its inception as part of any site plan approval. He stated that with the proffer changes to address traffic concerns and the impact of the development, staff recommended approval, even though the Planning Commission recommended denial. He stated the case was ready for the Board's consideration.

Mr. Chase asked for clarification on the School officials' concerns regarding the proximity to the schools. Mr. Egertson stated that the Planning Commission focused on the fact that the shopping center would bring the sale of tobacco and alcohol into close proximity to a school campus and School officials were concerned in general with the attractive nuisance of drawing students who would want to go to the shopping center as opposed to going to school.

John J. "Butch" Davy's III, attorney for the applicant, stated that Dr. Cox, Superintendent of Schools; School Board members; and Planning Commission staff had tried to address the serious transportation concerns that had been outlined. He reviewed the proffers and stated that expanding the right-of-way 10 feet on each side to provide for additional lanes was very important. He said there would be three lanes going out, one for a left-turn into the shopping area, and two lanes that would go through the entire project. He

said that one other commitment was made, due to the concern regarding access, was the offer of one other lane further to the east, which his client owned but was not the subject of this rezoning. He said this lane had been limited in access by commitments made to VDOT when Ira Hoffman Road was developed. He explained that it was a cut that was allowed by VDOT that would provide for a road to be constructed to enter the back side of the school property at the end of Achievement Drive and provide an additional outlet for school traffic. The actual access is at the end Achievement Drive, on property owned by the school, and there would be a public street constructed and accessible for the school system to have an alternate entrance. He felt that this was significant in addressing the concerns regarding traffic.

Mr. Davies stated that the buffer and fencing along Achievement Drive would keep the shopping center from being easily accessible. He said he did not believe that students with vehicles would access something that was highly visible and immediately adjacent to the school.

Mr. Davies pointed out that the present zoning of the property was for multifamily, but a commercial opportunity would help to generate additional tax revenues to the County. He pointed out that the road improvements underway at Routes 729 and 229, and ultimately plans to connect Route 522 to Route 229, would allow the area to become a focal point of that transportation network and the shopping center would ultimately function as a natural community neighborhood center. He stated that the location of the development was in an area that was projected to grow over the next three to five years, and it was an opportunity to generate and create tax revenue for the County, as well as to improve the transportation network without cost to the taxpayers or the School System. He thanked the Board for the extra time allowed for his clients to work with VDOT, County staff and the School System to create possible solutions to address the concerns raised.

Mr. Coates opened the public hearing and called for public comments.

Elizabeth Hutchins, Cedar Mountain District, stated she was speaking as a parent and as a member of the School Board. She stated that as a parent she had serious concerns about commercial development being so close to one of the County's schools. She said that she was concerned not only with the alcohol and tobacco issues, but the fact that a commercial development would bring a transient population that could not be tracked and the dangers that might result. She agreed, however, that having additional housing would create further burdens on the overcrowded schools. She said that she applauded the applicant for his cooperation in addressing the traffic situation, particularly in providing an additional road that would alleviate the School Board's concern regarding the entrance on Success Drive.



Perry Cabot, Jefferson District and representative of Culpeper Concerned Citizens, spoke at length regarding the application. He stated that CCC did not oppose the rezoning, but expressed serious concerns regarding the development of the property. See Attachment #1 for detailed comments.

Aaron Greso, West Fairfax District, stated that he was in favor of the rezoning request if the proffers were strong and well written, but he would oppose the request if the proffers were weak.

There were no further comments, and Mr. Coates closed the public hearing.

Mrs. Hansohn stated that she had reviewed the request from a parent's viewpoint, as well as that of a Board member. She agreed that the Board should consider the tax revenues that would come to the County as a result of the shopping center. She noted that the area was slated to have approximately 600 additional homes, multifamily and single-family residences, with the result of increased traffic. She stated that the additional tax revenues generated would be beneficial when building a new school.

Mrs. Hansohn moved, seconded by Mr. Chase, to approve the rezoning with the proffers that had been presented this evening to the Board.

Mr. Chase pointed out that commercial development, in addition to providing tax benefits, would provide jobs for students and others in the community. He said he did not see any negatives, only positives.

Mr. Coates inquired regarding the transportation improvements on Route 229, and whether they would fit in with the ultimate plans for that route. Mr. Egertson stated that he understood that they would.

Mr. Egertson stated that the proffers the Board had before them had been signed and minor changes made and initialed, but he would ask that the motion include the caveat that they be reexecuted and fully notarized as a condition of the approval and that the applicant attest to the fact that he was in agreement with these proffers.

Mr. Dave Maddox, County Attorney, agreed with Mr. Egertson and, if the Board voted to approve, there should be a condition of the rezoning and prior to the rezoning taking effect that there would be a final draft of the proffers acceptable to Mr. Egertson properly executed by the applicant.

Mrs. Hansohn agreed to amend the motion as requested by the County Attorney. Mr. Chase accepted the amendment.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

## **NEW PLANNING COMMISSION BUSINESS**

**CASE NO. Z-386-03-1.** The Board of Supervisors will consider the rezoning of 96.62 acres of property from R-4 (Residential) to LI (Light Industrial). The property is located on Route 720 in the Cedar Mountain Magisterial District. The Culpeper County Comprehensive Plan designates this area as industrial but does not indicate specific densities. Tax Map/Parcel No. 50/35D.

Mr. McLearen, Zoning Administrator, informed the Board that the Planning Commission had considered the case and a public hearing was held. He said Planning Commission was recommending to the Board of Supervisors, pursuant to Article 22 of the Zoning Ordinance and Section 15.2-2286(A)(7) of the *Code of Virginia*, that this rezoning be approved. The rezoning is required to serve the public necessity, convenience, general welfare, and good zoning practice based upon the following findings:

1. The rezoning is consistent with the Culpeper County Comprehensive Plan;
2. The rezoning is appropriate based upon area character and existing land use;
3. The rezoning is the most suitable for the subject property based upon the current and future requirements of the community;
4. The transportation requirements of the community are better met by the rezoning; and
5. The rezoning encourages the most appropriate use of the land.

Mr. Egertson displayed a tax map that highlighted the property being considered for rezoning from R-4 (Residential) to LI (Light Industrial). He noted that the property was considered to be an upzoning in that the potential use of the property would be more intense under the industrial designation. He pointed out that the property was shown as industrial on the Comprehensive Plan's Future Land Use Plan, and the area had been considered specifically as part of a plan amendment adopted in 2000. He stated that the adjacent property along Lover's Lane was zoned Light Industrial and Lover's Lane had been constructed with Industrial Access Funds. He said that an office use site plan had been filed for an adjacent parcel, which would utilize a drainfield, but the potential existed for public water and sewer service in the area in the future. He stated that despite the potential for higher intensity of use, it was likely that industrial development would generate less traffic than high-density residential development based upon trip generation projections published by the Institute of Transportation Engineers. He pointed out that there were existing parcels zoned for multifamily, high-density residential development available in the County, which were better suited to such use based upon area character, transportation factors, and more readily available public utilities. He stated that the staff recommendation was for approval of the rezoning based upon the findings discussed earlier.

Mr. Coates opened the public hearing and called for public comments.

Mark Moorstein, attorney for both Ashmeade LLC and Greengael LLC, stated that the rezoning was an evident move on the Board's part to down-zone this property and, regardless of the facts and arguments that had been made, this was an obvious involuntary downzoning. He said that the applicants had not consented to the rezoning and believed it to be inappropriate, unreasonable, arbitrary and capricious, and they felt that the Courts would agree when the case went to trial.

Mr. Moorstein called the Board's attention to the covenants which the applicants filed on the property on September 26. He stated again that the rezoning from R-4 to Light Industrial was a downzoning, and not an upzoning, and the rezoning would be void because it was unreasonable, arbitrary and capricious for more reasons than in any case he had experienced. He stated that the downzoning would not benefit the County because there was already a glut of industrial property in Culpeper County and there would be few buyers for the property unless there were adequate amenities, such as housing, cultural events, good roads, and water and sewer. He referenced a list of industrial sites in the County that had been vacant for sometime and cited the length of time some of the parcels had been on the market.

He noted that there were approximately 86 million square feet, or almost 2,000 acres, zoned industrial at the present time.

Mr. Moorstein stated that the property could be proffered to build schools and infrastructure, but the Board had turned down a number of proposals made in trying to resolve this matter, including an offer of \$4.5 million to build a school. He felt that was irresponsible on the Board's part, particularly when there was a need for affordable housing and schools.

Mr. Moorstein stated that the property was one of very few R-4 sites in the County, and it was appropriate for R-4 zoning. He said it could be served by water and sewer by upgrading the Keller Pump Station and the roads were adequate. He noted that the property had been zoned R-4 since 1989 and was in the Comprehensive Plan as R-4 until 2000. He said that adjacent properties were rural and residential, and the fact that this property could be used as industrial did not mean it could not be used as residential. He cited Milton Herd, a planning consultant, who testified before the Planning Commission that the land could be used in a mixture of residential, office, and light industrial. He pointed out that there was a demand at the current time for affordable housing for young people and minorities, but the County's Comprehensive Plan discouraged and prevented affordable housing, subdivided housing, even when the property was zoned for residential use.

Mr. Moorstein asked whether it was reasonable for the County to avoid dealing with growth by taking away someone's use and whether the Board thought it could overrule Constitutional protections by taking property that was inconvenient in that it would require building infrastructure and schools. He referenced a comment made at the Planning Commission by David Cubbage who indicated the Planning Commission changed the Comprehensive Plan in 2000 because complaints had been made regarding the fact that there would be children in affordable housing and that industrial use was a better use than having to build schools. He stated that comment was a violation of the Fair Housing Acts of Virginia and the United States.

Mr. Moorstein stated that the Board changed its original resolution as a result of being threatened with a law suit. He said the timing of this rezoning was completely suspect coming in the middle of an appeal on the water and sewer issue and when the County was threatened with a law suit and was done in order to take away the opportunity to use that property as it was zoned.

Mr. Moorstein alleged numerous violations, such as the downzoning was spot zoning and piecemeal zoning; the density of the Light Industrial proposal was reduced, not increased; and the County did not want children, schools and traffic. He cited the Snell case, that assured the landowner that barring the statute of fraud, the prior zoning ordinance created an expectation of legitimate profit that would not be reduced by a piecemeal zoning ordinance reducing permissible use of this land under circumstances substantially affecting the public interest. He questioned why the property should be upzoned if it already had adequate density and the owner did not want it rezoned. He stated that the County could not call the rezoning a upzoning because the densities were not clear. He said that the value of industrial land was far less than the R-4 and the proposed action was an unreasonable use of power and a taking. He said that the owner filed a covenant on September 26, 2003, prohibiting the use of this property as industrial, and if the County downzoned the property to industrial, it could not and would not be used, and the County would have created useless land. He emphasized that the downzoning took away all economic use of the property: First, as discussed, the property cannot be used as industrial because there are no takers; and second, because the covenants on the property forbade any economic use. He said that the County was aware of the covenants and any action it took to make the property worthless would amount to the category of a taking.

Mr. Moorstein pointed out that the downzoning was an "ad hoc inverse or regulatory condemnation" which was different from a categorical or simple taking, similar to taking everything all at once, and an ad hoc threat indicated and reflected the fact that the

Constitution of the United States prohibits taking property without paying just compensation. He pointed out that the County Attorney argued before the Planning Commission that there were no property rights in zoning. He stated that the Suffolk case, the U. S. Supreme Court, and the Omni case held that rights were not only vested as a property, but established because of the anticipated return on investment of an owner. He said that even under Section 15.2-2307, the vested rights provision, a property right is invested in land use if the owner was the beneficiary of a significant affirmative governmental act, which the R-4 zoning was. He stated that the downzoning was a categorical condemnation.

Mr. Moorstein stated that the County was in violation of the State Fair Housing Act, by intentionally discriminating against families with children, minorities and low and moderate income people, by intentionally downzoning to avoid providing schools. He accused the County of violating Section 36-96.3 which provides that it is unlawful discriminatory housing practices for any person which includes a governmental entity to “make unavailable or deny” vacant land which was offered for sale for the construction of a residence by one or more families who needed houses, children, to any person because of familial status. He said the downzoning also violated the Federal Fair Housing Act, 42 *United States Code*, section 1983, and possibly sections 1981 and 1982 dealing with issues of minority discrimination.

Mr. Moorstein stated that the downzoning served no compelling purpose and was illegal and void on a procedural basis because the first resolution and the second resolution were not advertised as required under Section 15.2-2204, while the issue was still in dispute in the courts. He said that there had not been any type of debate in any of the hearings he had attended. He stated that the applicants had offered the olive branch a number of times, which the County did not accept, and the applicants were ready to proceed with legal action as soon as the property was downzoned. He said he hoped that the County would do the right thing.

Bob Burnett, Jefferson District and representative of Concerned Culpeper Citizens, spoke in support of the rezoning. He informed the Board that the case was not a narrow neighborhood issue, but had broad planning ramifications. He noted that no adjacent property owners were present to speak, but the CCC would address commonsense views that would affect any citizen. See attachment #2 for his comments.

Aaron Greso, West Fairfax District, stated that he had visited the site and felt it was a good place to build a high school. He also felt that the County needed to have more industrial property to generate jobs, but if that were not possible, the County School District could condemn the land for a high school.

Mr. Maddox stated for the record that he respectfully disagreed with the legal

arguments of Mr. Moorstein.

With no further comments, Mr. Coates closed the public hearing.

Mr. Lee moved, seconded by Mrs. Smith, to approve the rezoning request.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

**CASE NO. U-2026-03-1.** Request by Sally and James Mello for approval of a use permit for the construction of a tenant unit. The property is located on Route 611 in the Jefferson Magisterial District and contains 10.56 acres. Tax Map/Parcel No. 13/29.

Mr. McLearen, Zoning Administrator, informed the Board that the Planning Commission had considered the case and a public hearing was held. He said Planning Commission found

this application to be consistent with Article 17 of the Zoning Ordinance. The Planning Commission was recommending to the Board of Supervisors that the use permit be approved.

Mr. Egertson displayed a tax map that highlighted the location of the property. He stated the applicant wished to build a second dwelling for an immediate family member who would live on the property full time and work on the site during peak seasons. He said that the applicant could build a second dwelling through a family division, but preferred not to subdivide at this time. He said staff had raised no concerns, and it was recommended for the Board's approval.

James Mello, applicant, explained that he and his wife were seeking to build a house for their son and his two children. He said his son, who was the principal at Rappahannock High School, was a divorced parent, and they had decided to proceed with a tenant unit rather than a family division in the event his son predeceased he and his wife. He stated that he would appreciate the Board's approval of the request.

Mr. Coates opened the public hearing and called for public comments.

There were none, and Mr. Coates closed the public hearing.

Mr. Rosenberger moved, seconded by Mrs. Smith, to accept the Planning Commission's recommendation to approve the use permit.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

**CASE NO. U-2027-03-1.** Request by Andrew J. Retz for approval of a use permit for the operation of an automotive repair shop. The property is located on Route F721 in the

Stevensburg Magisterial District and contains 27.91 acres. Tax Map/Parcel No. 42/40A.

Mr. McLearn, Zoning Administrator, informed the Board that the Planning Commission had considered the case and a public hearing was held. He said Planning Commission found the application to be consistent with Article 17 of the Zoning Ordinance. The Planning Commission was recommending to the Board of Supervisors that the use permit be approved subject to the following conditions:

1. A site plan amendment shall be submitted and approved in accordance with Article 20 of the Zoning Ordinance prior to commencing operation;
2. All requirements of the previous site plan for this property shall be met prior to commencing operation; and
3. No inoperable vehicles may be stored on the property except inside of an enclosed building; temporary placement of such a vehicle for service onsite for up to 72 hours shall not be deemed storage. No outside storage of tires, auto parts or other items is permitted other than placement of such items as debris in refuse containers depicted and approved as part of the aforementioned site plan amendment.

Mr. Egertson displayed a tax map that highlighted the industrially zoned portion of the property. He noted that the site was located on a service road off Route 666 and the Route 29 Bypass. He pointed out that the existing structure had been permitted as an industrial shell building for warehouse-type uses, and the applicant wished to occupy half of the building to operate an auto body shop. He said that the use was allowed in an industrial zone with a use permit, and it was recommended for approval with the conditions imposed by the Planning Commission.

Andrew Retz, applicant, informed the Board that Bob Hudson, his attorney, was unable to be present but did attend the Planning Commission meeting. He asked for a favorable vote and stated the conditions were being worked out between County staff and the owner of the building.

Mr. Coates opened the public hearing and called for public comments.

There were none, and Mr. Coates closed the public hearing.

Mr. Chase moved, seconded by Mr. Lee, to accept the Planning Commission's recommendation to approve with the conditions set forth by the Planning Commission.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

**CASE NO. U-2028-03-1.** Request by Camp Page, Inc. for approval of a use permit for the operation of a Christian Youth Camp. The property is located on Route 610 in the

Stevensburg Magisterial District and contains 90.45 acres. Tax Map/Parcel No. 54/51A.

Mr. McLearen, Zoning Administrator, informed the Board that the Planning Commission had considered the case and a public hearing was held. He said Planning Commission found

the application to be consistent with Article 17 of the Zoning Ordinance. The Planning Commission was recommending to the Board of Supervisors that the use permit be approved, subject to the following conditions:

1. A site plan must be submitted and approved in accordance with Article 20 of the Zoning Ordinance;
2. An adequate sewage disposal system must be permitted and in operation prior to commencing operation of the camp;
3. The camp shall be restricted to a maximum of 150 campers plus staff onsite at any time; and
4. Operation of the camp shall be limited to primarily seasonal (summer) use, with camp operations being limited to a maximum of 12 weeks per year. This condition shall not be construed to limit the presence of staff members at the facility.

Mr. Egertson displayed a tax map that highlighted the location of the property. He stated that the property currently contained some structures and facilities for a camp, and it had been used as a camp in the past. He said that staff recommended that the request be approved with the conditions imposed by the Planning Commission.

Mr. Chase questioned the inclusion of condition #1 since a site plan was an ordinance requirement. Mr. Egertson stated that it had been included as an insurance measure to make sure that the site plan was submitted and covered all necessary requirements for a septic field and entrance improvements.

Douglas Hilton, attorney, stated he was speaking on behalf of Mr. Yeaman who was out of town. He informed the Board that Camp Page was a 501(c)(3) tax exempt charitable organization, and the purpose of the application was to operate a Christian youth camp. He stated that the facility had been used as a youth camp in the past, and there were a number of facilities on site that were of high quality, but in need of repair. He noted that Dan Boger, Vice President and Executive Director of Camp Page, was present to answer any questions.

Mr. Coates opened the public hearing and called for public comments.

There were none, and Mr. Coates closed the public hearing.

Mr. Chase moved, seconded by Mrs. Smith, to approve the use permit in accordance with the Planning Commission's recommendations with the conditions imposed.

Mr. Coates called for voice vote.



Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

**CASE NO. Z-387-03-1.** Request by P. Wayne and Louise G. Stilwell to rezone 7.34 acres from A-1 (Agricultural) to LI (Light Industrial). The property is located on Route 15/29 in the Stevensburg Magisterial District. The Culpeper County Comprehensive Plan designates this area as Rural. Tax Map/Parcel No. 34/62.

Mr. McLearen, Zoning Administrator, informed the Board that the Planning Commission had considered the case and a public hearing was held. He said Planning Commission found this rezoning request to be inconsistent with the Comprehensive Plan. The Planning Commission was recommending to the Board of Supervisors that this rezoning request be denied.

Mr. Egertson displayed a tax map that highlighted the location of the property which was surrounded by agricultural zoning. He noted there were two recent industrial commercial zonings on a service road on the other side of Routes 5/29 Bypass in compliance with the Comprehensive Plan's Future Land Use Plan, which showed Route 29 as the dividing line. He stated that based upon the fact that the subject property had been designated as rural and not industrial, the staff and Planning Commission recommended denial.

Mr. Egertson informed the Board that Mr. Stilwell had executed a proffer statement, after the Planning Commission hearing, which stipulated:

1. Entrance improvements shall be constructed in accordance with VDOT recommendations, including left and right turn lanes on Route 15/29 constructed to VDOT standards;
2. A site plan and supporting materials shall be submitted and approved in accordance with Articles 20 and 30 of the Culpeper County Zoning Ordinance; and
3. It is agreed that in addition to required landscaping and screening for the development of the property, that the site plan shall include a solid wooden fence no less than six (6) feet in height to provide screening from Tax Map/Parcels No. 34/62B and 34/62D.

Mr. Egertson stated that the proffers were appropriate should the Board move to approve the rezoning, but the staff and Planning Commission recommended that the use permit be denied.

Mr. Walker asked whether the property was located in the Entrance Overlay District. Mr. Egertson stated that it was and would be subject to Architectural Review Board provisions.

Wayne Stilwell, applicant, acknowledged that Route 29 had been used as a dividing

point between industrial and rural/agricultural in the Comprehensive Plan instead of the railroad. He distributed a sketch which indicated a small square area owned by VDOT, which indicated a stop sign leaving the property and showed a four-lane road with no route number. He said that he would like to have an adequate shop in order to get exposure for his plumbing business, but trees prevented that exposure on the other side of the road.

Mr. Coates opened the public hearing and called for public comments.

Timothy Wolfe, adjacent property owner, expressed his concerns regarding the impact that a business with approximately 25 employees would have on water and sewer usage, as well as the traffic generated by tractor trailers and other vehicles. He stated that the area should remain agricultural and industrial uses should be confined to the opposite side of Route 29.

With no further comments, Mr. Coates closed the public hearing.

Mr. Coates stated that he was familiar with the area since he grew up near Brandy and the particular property had been commercial at one time. He stated that the area between Route 29 and the railroad track was shown as agricultural, but it was a wet area that was not being cultivated or farmed at this time. He said it was difficult to understand why the Planning Commission voted to deny in view of the circumstances. He added that industrial would generate additional tax base for the County, and he did not see any problems with the rezoning if Mr. Stilwell was willing to abide by the proffers. He noted that there was a cross over and, whether F716 existed or not, Mr. Stilwell's access would be off that road.

Mr. Egertson stated that Mr. Coates was correct regarding access. He indicated the location of VDOT's right-of-way on the plat and noted that additional right-of-way would not be needed for Mr. Stilwell's access, but might be needed from other property owners between Mr. Stilwell and Remington should a service road be built. He stated that the Planning Commission made its recommendation for denial because they felt the line between rural and industrial land should be divided by Route 29.

Mr. Chase pointed out that Mr. Stilwell proffered a six-foot fence between his property and adjoining lots, and that there was at least a one-half mile of site distance there.

Mr. Chase moved, seconded by Mr. Lee, to approve the request for rezoning and accept Mr. Stilwell's proffers.

Mr. Coates asked whether the drainfield and well were a Health Department matter. Mr. Egertson stated that it was and both the drainfield and well would be addressed as part of any site plan approval before Mr. Stilwell constructed anything.

Mr. Rosenberger asked Mr. Stilwell about the amount of truck traffic he anticipated going in and out at this location. Mr. Stilwell replied that he would probably have a tractor

trailer delivery on Wednesdays, and regular trucks no more than three times a week. He stated that he stored most of his materials on the various job sites, and no more than half of the approximately 30 employees would actually come to the shop.

Mr. Rosenberger asked if he anticipated having a showroom with water softeners, and other plumbing supplies. Mr. Stilwell stated that he would like to have a small showroom in order to attract those Culpeper residents traveling on Route 29 to and from northern Virginia.

Mr. Rosenberger stated that he had known Mr. Stilwell for almost 20 years and found him to be a fine and trustworthy individual, but he would support the Planning Commission's recommendation.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Smith, Walker

Nay - Rosenberger

Motion carried 6 to 1.

#### **ADJOURNMENT**

Mrs. Smith moved, seconded by Mrs. Hansohn, to adjourn at 8:45 p.m.

Mr. Coates called for voice vote.

Ayes - Chase, Coates, Hansohn, Lee, Rosenberger, Smith, Walker

Motion carried 7 to 0.

Peggy S. Crane, CMC  
Deputy Clerk

John F. Coates, Chairman

ATTEST:

Frank T. Bossio, Clerk to the Board

APPROVED: November 5, 2003